

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Kantwan Kinte Garner,

Civil Action No. 3:16-cv-3095-CMC

Plaintiff,

vs.

ORDER

The State of South Carolina,

Defendant.

This matter is before the court on Plaintiff's complaint alleging that he was arrested, held in jail for twenty-seven months, denied a speedy trial, and the charges remained on his record for ten years, precluding him from getting jobs. ECF No. 1. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(g), D.S.C., this matter was referred to United States Magistrate Judge Paige J. Gossett for pre-trial proceedings and a Report and Recommendation ("Report") on dispositive issues. On October 3, 2015, the Magistrate Judge issued a Report recommending that this matter be summarily dismissed without prejudice, and without issuance and service of process. ECF No. 11. The Magistrate Judge advised the parties of the procedures and requirements for filing objections to the Report and the serious consequences if they failed to do so. After an extension of time, Plaintiff filed objections to the Report on November 4, 2016. ECF No. 16.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a de novo determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made

by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b).

After considering the record, the applicable law, the Report and Recommendation of the Magistrate Judge and Plaintiff's objections, the court agrees with the Report's recommendation that the complaint should be dismissed. Plaintiff has brought suit against the State of South Carolina, which is immune from suit under the Eleventh Amendment. Plaintiff cites *Jones v City of Columbia*, 389 S.E.2d 662 (S.C. 1990); however, that case was filed in state court and the named defendants were the City of Columbia and two police officers, not the State of South Carolina. It is the State itself that is immune from suit. Accordingly, the court adopts the Report by reference in this Order. Plaintiff's Complaint is hereby dismissed without prejudice.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
November 9, 2016